

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

BARBARA LODER  
HILDEBRANDT,

Plaintiff,

vs.

HYATT CORPORATION,  
et al.,

Defendants.

Case No. C-1-02-003  
(Judge Beckwith)

COPY

Deposition of BRUCE W. SMALL, a witness  
herein, called by the plaintiff for cross-  
examination, pursuant to the Federal Rules of Civil  
Procedure, taken before me, Wendy L. Welsh, a  
Registered Merit Reporter and Notary Public in and  
for the State of Ohio, at the offices of Fisher &  
Phillips LLP, 420 Marquette Building, 140 South  
Dearborn Street, Chicago, Illinois, on Tuesday,  
April 16, 2002, at 1:58 p.m.

14:58:26

EXHIBIT

A

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15:43:10 1 live beta. Full production was late October.

15:43:15 2 Q. So it is in full production?

15:43:18 3 A. Oh, yes.

15:43:18 4 Q. Do you know what the investment is that

15:43:22 5 Hyatt has in that system?

15:43:24 6 A. I don't recall the final numbers on that.

15:43:26 7 MR. STEINBERG: I think that's all the  
15:43:28 8 questions I have. Let me just check.

15:43:33 9 Okay. That's all I have. Thank you.

15:43:34 10 MS. GALLION: We'll take a short break and  
15:43:34 11 we'll come back. I'll have five or ten minutes  
15:43:34 12 and we'll be done.

15:43:34 13 (Recess taken: 2:43 p.m. - 2:56 p.m.)

15:43:39 14 REDIRECT EXAMINATION

15 15 BY MS. GALLION:

15:56:17 16 Q. I had noticed your deposition, sir, just  
15:56:19 17 because I wanted to ask you a handful of questions.

15:56:21 18 Do you know the plaintiff in this case:

15:56:22 19 Mrs. Hildebrandt?

15:56:22 20 A. Yes.

15:56:23 21 Q. Do you know her from having worked with  
15:56:25 22 her?

15:56:25 23 A. Yes.

15:56:26 24 Q. Was there ever a period of time when you

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15:59:47 1 grew to know her customer base, I had concerns about  
15:59:51 2 the long-term viability of that limited geographical  
15:59:56 3 territory.

15:59:58 4 And we undertook some searches, we had the  
16:00:02 5 team in Omaha pull a number of records for us, we  
16:00:05 6 had some binders we went through and I don't  
16:00:08 7 remember all of them, but over time I spent a number  
16:00:11 8 of hours going through those.

16:00:13 9 We passed them on to Barb. We made some  
16:00:18 10 calls that I can remember. It was very difficult to  
16:00:21 11 find customers that fit the national sales force  
16:00:23 12 criteria in that geographical area.

16:00:26 13 Q.. Did you work with her as you've just been  
16:00:28 14 describing --

16:00:28 15 A. Yes.

16:00:29 16 Q. -- to try to locate additional  
16:00:31 17 opportunities?

16:00:31 18 A. Oh, yes.

16:00:31 19 Q. Even at the time that you no longer  
16:00:34 20 supervised her, let's just go to, say, the fall of  
16:00:36 21 2000 at the time you were exiting that position to  
16:00:39 22 your current position, did you continue to have some  
16:00:41 23 concerns about the viability of a national sales  
16:00:45 24 force presence in the person of Mrs. Hildebrandt in

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16:00:47 1 that geographic area?

16:00:48 2 A. Yeah. The challenge of the number of  
16:00:52 3 accounts hadn't changed at that point.

16:00:53 4 MS. GALLION: I don't have anything else.  
16:00:55 5 Thank you, sir. Counsel may have a few.

16:00:57 6 MR. STEINBERG: Oh, I have a few.

16:00:59 7 (Recess taken: 3:01 p.m. - 3:04 p.m.)

16:04:45 8 RECROSS-EXAMINATION

9 BY MR. STEINBERG:

16:04:47 10 Q. Mr. Small, how long did Barb Loder  
16:04:57 11 Hildebrandt work for you?

16:04:58 12 A. I think we said from roughly the late  
16:05:03 13 summer, early fall of '95 through the end of 2000.

16:05:08 14 Q. And every year that she worked for you you  
16:05:13 15 rated her, and when you weren't involved in this  
16:05:16 16 litigation, you rated her as exceeding her  
16:05:19 17 expectations?

16:05:19 18 A. Yes.

16:05:20 19 Q. And you knew she was an excellent person  
16:05:25 20 in the national sales force?

16:05:25 21 A. Yes.

16:05:25 22 Q. Just as good as anyone; isn't that right?

16:05:28 23 A. Yes.

16:05:28 24 Q. And better than many in the central

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16:06:24 1 Q. National Cotton Council?

16:06:27 2 A. Yep.

16:06:28 3 Q. Food Service accounts?

16:06:30 4 A. Uh-huh.

16:06:30 5 Q. Are you saying that's not an adequate  
16:06:33 6 account base?

16:06:33 7 A. I'm saying that it was not at the time,  
16:06:35 8 that's correct.

16:06:35 9 Q. What did you do about it?

16:06:37 10 A. We had -- we performed a number of studies  
16:06:43 11 internally. We pulled down data on account history  
16:06:46 12 by organizations to try to identify accounts in that  
16:06:49 13 geographical area, passed on what we could find that  
16:06:52 14 seemed to fit the profile. I don't remember exactly  
16:06:55 15 what we found. I believe Barb probably made some  
16:06:59 16 prospecting calls on them. But there really wasn't  
16:07:02 17 a lot there that I can remember.

16:07:03 18 Q. When was that?

16:07:03 19 A. I don't remember.

16:07:05 20 Q. You don't have any idea when that was?

16:07:07 21 A. Within the five-year period? No, I don't.

16:07:09 22 Q. It could have been 1995?

16:07:11 23 A. No, it wasn't 1995. It would have been  
16:07:14 24 after that, because I wasn't there a full year.

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16:07:16 1 Q. '96?

16:07:17 2 A. It could have been anywhere from '96

16:07:20 3 through '99, I would say.

16:07:22 4 Q. How many times did you do this big study?

16:07:26 5 A. I think once or twice.

16:07:27 6 Q. And you don't remember when you did it?

16:07:30 7 A. No, I don't remember the exact time.

16:07:32 8 Q. Do you have any records that show when you

16:07:35 9 did this study?

16:07:35 10 A. No.

16:07:35 11 Q. Why not?

16:07:37 12 MS. GALLION: Object. That is so rude.

16:07:39 13 MR. STEINBERG: I'm asking --

16:07:39 14 A. I'm not --

16:07:39 15 MS. GALLION: It's argumentative.

16:07:40 16 MR. STEINBERG: Stop interrupting.

16:07:42 17 MS. GALLION: You don't need to answer why

16:07:45 18 not. You just don't need to answer these

16:07:45 19 questions.

16:07:45 20 MR. STEINBERG: Are you instructing the

16:07:47 21 witness --

16:07:47 22 MS. GALLION: I am.

16:07:47 23 MR. STEINBERG: -- not to answer the

16:07:48 24 question "Why not"?

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16:07:48 1 MS. GALLION: I am. It is so rude and  
16:07:50 2 disrespectful and argumentative and  
16:07:53 3 inappropriate and beneath you and the dignity  
16:07:56 4 of everybody in this room. It's terrible.

16:08:01 5 BY MR. STEINBERG:

16:08:01 6 Q. What happened to the documents that were  
16:08:05 7 compiled by the Omaha office in this study that  
16:08:08 8 you're testifying about?

16:08:09 9 A. As far as I know, they were in a binder  
16:08:21 10 the last I saw them.

16:08:21 11 Q. What happened to the binder?

16:08:21 12 A. I have no idea since I left. I left it  
16:08:21 13 there. And I believe it was -- if I remember  
16:08:21 14 correctly, it was not just her geographical area  
16:08:25 15 that I was looking at. It was others, too.

16:08:27 16 Q. Were you planning to terminate her then?

16:08:31 17 A. No.

16:08:31 18 Q. Were you planning to close the Cincinnati  
16:08:34 19 office?

16:08:34 20 A. Not necessarily. I was responsible for  
16:08:37 21 growing revenue out of the Chicago national sales  
16:08:39 22 office.

16:08:39 23 Q. Why didn't you assign her accounts in  
16:08:41 24 another area?

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